

REMARKS

Claims 2-3 have been canceled. Claims 1 and 4-28 remain pending in the application. Applicants amended claims 1, 8, 13, and 22 to incorporate features recited in canceled claim 3 and to clarify the invention. No new matter has been added.

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by European Patent Application No. EP 0967559 to Chueng-Hsein et al. The Examiner has apparently also rejected claims 4-5, 8-11, 13, 15, and 22-23 under this § 102 rejection. Claim 2 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Chueng-Hsein et al. and further in view of U.S. Patent No. 6,542,505 to Shiota; and claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Chueng-Hsein et al. and further in view of U.S. Patent No. 6,392,991 to Yamamoto et al. The Examiner has apparently also relied upon Shiota as a combining reference in rejecting claim 3. Applicants respectfully request that the Examiner clarify any future claim rejections.

Applicants canceled claims 2 and 3, and amended claims 1, 8, 13, and 22 to incorporate the limitations of claim 3 in a good faith effort to further clarify the invention as distinguished from the cited prior art references. Applicants respectfully traverse the Examiner's rejections.

The Examiner acknowledged that Chueng-Hsein et al. fail to disclose a system "wherein both said data distribution server and network cache apparatus and both said network cache apparatus and access server are connected via an optical cross-connect equipment forming said exchange function unit of the network cache equipment." Page 8, lines 14-18 and page 9, lines 8-11 of the Office Action. The Examiner relied upon Shiota as a combining reference to disclose this feature. The Examiner further acknowledged that the combination of Chueng-Hsein et al. and Shiota would still fail to reach "said data is distributed by wavelength multiplex

transmission.” Page 9, lines 21-22 of the Office Action. The Examiner relied upon Yamamoto et al. as a combining reference to disclose this feature.

Applicants respectfully submit that it would not be obvious to one skilled in the art to combine Yamamoto et al. to Chueng-Hsein et al. and Shiota in the manner proposed by the Examiner. Shiota, and the cited portions thereof, merely describes an ATM switch. Yamamoto et al., and the cited portions thereof, describe a communication “ring” network whereby wavelength multiplex transmission may be used for a “transmission path” interconnecting apparatuses in such a network. Therefore, neither reference, as applied by the Examiner, include any suggestion to be combined with each other and Chueng-Hsein et al. to form a system wherein at least both a network cache apparatus and an access server are “connected via an optical cross-connect equipment” and “said data is distributed by wavelength multiplex transmission,” as recited in amended independent claims 1, 8, 13, and 22. It is unclear how the Examiner applied the ATM switch described in Shiota and the wavelength multiplex used for interconnecting node apparatuses in Yamamoto et al. to a system having a network cache apparatus and an access server. Furthermore, applicants respectfully submit that it would be improper hindsight to combine the ATM switch described in Shiota and the wavelength multiplex described in Yamamoto et al. (which was used merely as an example for interconnecting node apparatuses) with the “push-pull service” described in Chueng-Hsein et al. Moreover, even assuming, arguendo, that it would be obvious to one skilled in the art to combine the references in the manner proposed by the Examiner, such a combination would still fail to teach or suggest both a network cache apparatus and an access server are “connected via an optical cross-connect equipment” and “said data is distributed by wavelength multiplex transmission,” as recited in amended independent claims 1, 8, 13, and 22. (Emphasis added)

Applicants, therefore, respectfully submit that claims 1, 8, 13, and 22, together with claims 4-5, 9-10, 15, and 23 dependent therefrom, respectively, are patentable over the cited prior art references for at least the above-stated reasons.

Claims 6-7, 11-12, 14, 16-21, and 24-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chueng-Hsein et al. in view of U.S. Patent No. 5,253,248 to Dravida et al.; and claims 27 and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chueng-Hsein et al. in view of U.S. Patent No. 6,425,005 to Dugan et al.

The Examiner relied upon Dravida et al. and Dugan et al. as combining references for specifically disclosing additional features recited in the dependent claims that the Examiner acknowledged are not taught in Chueng-Hsein et al. These references are, therefore, ineffective in overcoming the above-described deficiencies of the prior art references—namely, Chueng-Hsein et al., Shiota, and Yamamoto et al.—cited against claims 2 and 3, and, thus, amended independent claims 1, 8, 13, and 22. Accordingly, applicants respectfully submit that claims 6-7, 11-12, 14, 16-21, and 24-28 are patentable over the cited prior art references for at least the above-stated reasons with respect to base claims 1, 8, 13, and 22.

The above statements on the disclosures in the cited references represent the present opinions of the undersigned attorney. The Examiner is respectfully requested to specifically indicate those portions of the respective reference that provide the basis for a view contrary to any of the above-stated opinions.

Applicants appreciate the Examiner's implicit finding that the additional U.S. patent made of record, but not applied, does not render the claims of the present application unpatentable, whether this reference is considered alone or in combination with others.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,



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